

TOWN OF BLOOMFIELD

POLICY MEMORANDUM

SUBJECT: Federal Uniform Guidance Procurement
Standards

NO: Policy #141.07

DATE: May 2021

AMENDED:

DISTRIBUTION:

BY: Nancy Haynes

Purchasing & Risk Manager

APPROVED:



I. PURPOSE

Uniform Guidance significantly reforms federal grant making to focus resources on improving performance and outcomes. The intent is to reduce administrative burdens for grant applicants and recipients and reduce the risk of waste, fraud, and abuse. These standards apply to purchases made with federal funds.

Procurement guidance is specifically located in sections 200.317-200.326. This guidance focuses on increased competition and transparency in the procurement process.

There are five general procurement standards that cover the purchase of property, supplies and services under the Uniform Guidance:

1. The organization must maintain written policies and procedures for procurement covering the methods available under these regulations.
2. Costs must be reasonable and necessary
3. Must provide for full and open competition
4. The organization must maintain written standards of conduct covering internal and external conflicts of interest
5. The organization must maintain documentation addressing cost and price analysis and vendor selections where applicable based on the method of procurement used.

II. RESPONSIBILITY

All employees involved in making purchases

III. FORMS

None

IV. PROCEDURE

Refer to attached matrix

Comparison of Federal Uniform Guidance Procurement Standards to Town's Standard Procurement Policies

CFR Subsection	Full Text of CFR Section	Summary of CFR Section	Town Legal Reference	Town Regulations
200.318(a)	The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.	Town must follow its own purchasing policies	Town Charter Section 502 [c] and 909	The Town's procurement laws are established by the Town Charter Section 502[c] and 909, as revised, and allows the Town Manager to establish further regulations of the purchasing rules and regulations as necessary subject to the approval of the council.
200.318(b)	Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.	Town must provide oversight of its contractors		The Purchasing and Risk Manager and the Department Heads whose projects are out to bid shall oversee contractors in the ordinary course of business.
200.318(c)(1)	The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.	Town must have written standards covering conflicts of interest	Town Municipal Code Section 2-19	The Town's policy meets the UGPS standards
		Town must have written standards governing the performance of its employees engaged in the selection, award, and administration of contracts.		The Town shall use the UGPS standards when applicable
		The Town must not solicit nor accept gifts.	Town Municipal Code Section 2-19	The Town's policy meets the UGPS standards
		The Town may define what gifts are of a nominal value		The Town shall use the UGPS standards when applicable
200.318(c)(2)	If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.	The standards of conduct must provide disciplinary actions for violations		The Town shall use the UGPS standards when applicable
		The Town's conflict of interest policy must cover relationships with related parties		The Town shall use the UGPS standards when applicable
200.318(d)	The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.	The Town must avoid purchasing unnecessary items		The Town avoids purchasing unnecessary items, but it is not specifically addressed in the Charter or Code of Ordinances
		The Town should consider bundling or unbundling procurements and analyze purchase alternatives to achieve the most economical outcome		The Town considers the bundling or unbundling of purchases, but it is not specifically addressed in the Charter or Code of Ordinances

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200.319(a)	All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to: (1) Placing unreasonable requirements on firms in order for them to qualify to do business; (0) Requiring unnecessary experience and excessive bonding; (3) Noncompetitive pricing practices between firms or between affiliated companies; (4) Noncompetitive contracts to consultants that are on retainer contracts; (5) Organizational conflicts of interest; (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and (7) Any arbitrary action in the procurement process. The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.	The Town must avoid all practices that would discourage open competition		The Town develops specs and bid requirements that encourage free and open competition. All requests for information are directed to and answered by the Purchasing Agent and these Q&A are made available to all potential bidders. The Town shall use the UGPS standards when applicable.
200.319(b)	The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.	The Town is generally prohibited from using local vendor preference		The Town shall use the UGPS standards when applicable.
200.319(c)	The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations: (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.	The Town must have written procedures which ensure that solicitations have clear descriptions for the goods and services that are sought which do not inhibit competition.		The Town develops specs and bid requirements that encourage free and open competition. All requests for information are directed to and answered by the Purchasing and Risk Manager and these Q&A are made available to all potential bidders.
200.319(d)	The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.	The Town must ensure that there are enough qualified vendors to ensure maximum open and free competition		The Town shall use the UGPS standards when applicable.
200.320(a)	Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.	Purchases of \$3,000 or less (\$2,000 or less for construction) may be awarded without competitive quotes. Federal OMB raised the limit for micro-purchases to \$10,000 on June 20, 2018.	Section 4 of Purchasing Policies and Procedure Manual	Purchases less than \$7,500 do not require competitive quotes. Purchases between \$7,500 and the formal bid threshold (0.1% of the total annual budget) require 3 competitive written quotes.

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200.320(f)	Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply: (1) The item is available only from a single source; (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or (4) After solicitation of a number of sources, competition is determined inadequate.	The Town may procure goods without competitive proposals only when the item is available only from a single source, in times of public emergency, the Federal awarding agency expressly authorizes noncompetitive proposals, or competition is determined	Town Purchasing Policies and Procedures Manual Section 21	Circumstances precluding waiver of the procurement process are limited by virtue of special and uniqueness demonstrate in writing satisfactory to the Purchasing and Risk Manager after consultation with the requisitioning department.
200.321(a)	Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a) The Non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.	The Town must take steps to utilize small and minority businesses, women's business enterprises, and labor surplus area firms.	Town Policy 110.06	The Town shall use the UGPS standards when applicable.
200.321(b)	Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.	Describes the actions needed for small and minority businesses, women's business enterprises, and labor surplus area firms.	Town Policy 110.06	The Town shall use the UGPS standards when applicable.
200.322	A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.	The Town must follow standards in sourcing certain materials over \$10,000 to ensure a high level of recycled/ recovered materials.		The Town shall use the UGPS standards when applicable.
200.323(a)	The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.	The Town must estimate the cost of a procurement in excess of the Simplified Acquisition Threshold		The Town shall use the UGPS standards when applicable.
200.323(b)	The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.	The Town must negotiate profit for sole-source procurements		The Town shall use the UGPS standards when applicable.